

Ottawa, Monday, June 18, 2001

File No. PR-2000-024

IN THE MATTER OF a complaint filed by AT&T Canada Corp.  
under subsection 30.11(1) of the *Canadian International Trade  
Tribunal Act*, R.S.C. 1985 (4th Supp.), c. 47;

AND IN THE MATTER OF a determination made pursuant to  
subsection 30.16(1) of the *Canadian International Trade Tribunal  
Act*, awarding AT&T Canada Corp. its reasonable costs incurred in  
relation to filing and proceeding with the complaint.

## ORDER

In a determination made on November 27, 2000, the Canadian International Trade Tribunal (the Tribunal) awarded AT&T Canada Corp. (AT&T) its reasonable costs incurred in relation to filing and proceeding with the complaint.

On January 26, 2001, AT&T submitted to the Tribunal its claim for costs in the amount of \$28,356.13.<sup>1</sup> On February 26, 2001, the Department of Public Works and Government Services (the Department) submitted comments on AT&T's claim. On March 8, 2001, AT&T submitted its response to the Department's comments.

### COMPLAINT COSTS

AT&T has claimed \$26,176.03<sup>2</sup> for legal fees and \$2,180.10 for disbursements relating to its costs of filing and proceeding with the complaint.

The Department suggests that AT&T should not be awarded costs for the portion of the proceedings related to the application of the *North American Free Trade Agreement*<sup>3</sup> and the *Agreement on Government Procurement*<sup>4</sup> to this procurement and for the portion of the proceedings related to the Department's motion to produce evidence. The Department also suggests that the claims for counsel's time, for photocopying and for binding are excessive.

With respect to the Department's suggestion that portions of the proceedings should be severed from the claim, the Tribunal points out that, in its determination, it awarded AT&T the reasonable costs incurred in filing and proceeding with the complaint. The Tribunal did not limit the award to portions of the proceedings and sees no compelling reason to do so at this juncture. The Tribunal notes in this context that both motions filed by the Department were dismissed and that AT&T was successful on the main ground of complaint relating to discrimination. AT&T was awarded its reasonable costs with respect to all arguments presented in support of that ground of complaint even though not all arguments succeeded. As indicated in the Tribunal's

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1. This figure corrects a small addition error on AT&T's Bill of Costs.
  2. *Ibid.*
  3. 32 I.L.M. 289 (entered into force 1 January 1994).
  4. 15 April 1994, online: World Trade Organization <[http://www.wto.org/english/docs\\_e/legal\\_e/final\\_e.htm](http://www.wto.org/english/docs_e/legal_e/final_e.htm)>.

statement of reasons, AT&T was also awarded costs with respect to the other ground of complaint relating to the Department's refusal to grant AT&T's request to extend the time to submit the proposals by four weeks.

With respect to the Department's suggestion that the claim for counsel's time in preparing the complaint is excessive, the Tribunal notes that AT&T submitted a detailed account of the time spent on filing and proceeding with the complaint. Given the complexity of the complaint, the Tribunal does not find this claim to be unreasonable.

With respect to the Department's suggestion that the claims for photocopying and binding are excessive, the Tribunal again notes that AT&T submitted detailed invoices for these disbursements. In the Tribunal's opinion, the Department has not presented any compelling evidence to indicate why these claims are unreasonable. Again, the Tribunal does not find these claims to be unreasonable.

Having considered the parties' submissions, the complexity of the case as well as the degree of experience and skill of counsel for AT&T, the Tribunal is of the view that AT&T's claim is reasonable and in line with both the determination of November 27, 2000, and the *Canadian International Trade Tribunal Procurement Cost Guidelines*.

## CONCLUSION

The Tribunal hereby awards AT&T costs in the amount of \$28,356.13 in relation to filing and proceeding with the complaint and directs the Department to take appropriate action to ensure prompt payment.

Patricia M. Close

Patricia M. Close

Presiding Member

Pierre Gosselin

Pierre Gosselin

Member

Richard Lafontaine

Richard Lafontaine

Member

Michel P. Granger

Michel P. Granger

Secretary